

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:08-cv-21340-ASG

Duane R. Olson

08CV3505

JUDGE LEINENWEBER

Plaintiff(s),

MAGISTRATE JUDGE COX

v.

Federal Correctional Institution
Mr. Jorge Pastrana, Warden

FILED

JUN 17 2008 *new*

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

Defendant(s),

CLERK'S NOTICE OF TRANSFER TO OTHER DISTRICT

Pursuant to the Order of Transfer entered on June 4, 2008, the above-styled case is hereby transferred to the United States District Court for the Northern District of Illinois. Enclosed are certified copies of the Order of Transfer and the Court's docket sheet. The case record is ☐ a combined paper and electronic file or ☒ an electronic file and the imaged documents can be obtained at **PACER.USCOURTS.GOV** by using your Pacer (not CM/ECF) login and password. If you do not have a pacer login, please contact the Pacer Center at 1-800-676-6856.

DONE at the Federal Courthouse, U.S. D.C Southern District of Florida, Florida, this 4th day of June 2008.

STEVEN M. LARIMORE
Court Administrator - Clerk of Court

By: *[Signature]*

[Signature]
s/ Ahlai Israel
Deputy Clerk

Please acknowledge receipt of this transfer by returning a time-stamped copy of this Notice to:

United States District Court
Southern District of Florida

Received By: _____

New Case No. _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 08-21340-CIV-GOLD/WHITE
(90-577-1-CR)

FILED

JUN 17 2008 *new*

DUANE OLSON,

Movant,

v.

**MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**

JORGE PASTRANA, WARDEN,

Respondent.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION:
CLOSING CASE**

THIS CAUSE comes before the Court on the Report and Recommendation [DE 3] issued by Magistrate Judge White on May 15, 2008 on Petitioner's Motion for Writ of Habeas Corpus [DE 1]. Petitioner requests his conviction for various drug offenses, see Case No. 90-577-1-CR, be vacated under a claim of factual innocence.

In the Report, Magistrate Judge White concludes that the Northern District of Illinois, Eastern Division, where Petitioner's conviction was originally entered, is the proper venue for Petitioner's motion. See 28 U.S.C. 2255 (e) (2008). Magistrate Judge White therefore recommends transferring this case to the Northern District of Illinois for resolution. Report at p. 2.

In his Objection to the Report and Recommendation [DE 5], Petitioner acknowledges having "no Objection to the Magistrate's Recommendation that this case be transferred to the United States District Court for The [sic] Northern District of Illinois, Eastern Division" Id. at p. 10 (internal quotation omitted).

Having reviewed the Motion and the Report, and noting that Petitioner does not object to the recommended transfer of venue in his Objection, I hereby adopt Magistrate


**08CV3505
JUDGE LEINENWEBER
MAGISTRATE JUDGE COX**

Judge White's Report. Accordingly, it is hereby

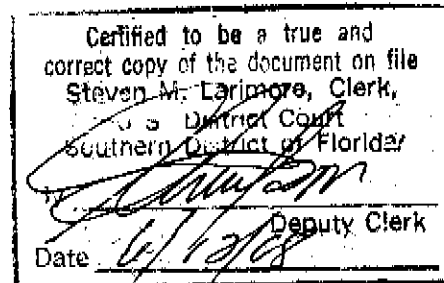
ORDERED AND ADJUDGED that

1. The Report and Recommendation [DE 3] is ADOPTED.
2. Petitioner's Motion for Writ of Habeas Corpus [DE 1] is TRANSFERRED to the Northern District of Illinois.
3. The Clerk of Court is instructed to CLOSE this case.

DONE AND ORDERED in Chambers at Miami, Florida this 4 day of June, 2008.


THE HONORABLE ALAN S. GOLD
UNITED STATES DISTRICT JUDGE

Copies furnished to:
U.S. Magistrate Judge Patrick A. White
All counsel of record



FILEDJUN 17 2008 *aw***MICHAEL W. BOBBINS**
CLERK, U.S. DISTRICT COURT

CASREF, CLOSED, HABEAS, PAW

U.S. District Court
Southern District of Florida (Miami)**IL DOCKET FOR CASE #: 1:08-cv-21340-ASG****Internal Use Only**

Olson v. Federal Correctional Institution

Assigned to: Judge Alan S. Gold

Referred to: Magistrate Judge Patrick A. White

Cause: 28:2241 Petition for Writ of Habeas Corpus (Federal)

Date Filed: 05/07/2008

Date Terminated: 06/04/2008

Jury Demand: None

Nature of Suit: 555 Habeas Corpus
(Prison Condition)

Jurisdiction: U.S. Government

Defendant

Petitioner**Duane R. Olson**represented by **Duane R. Olson**

04931-424

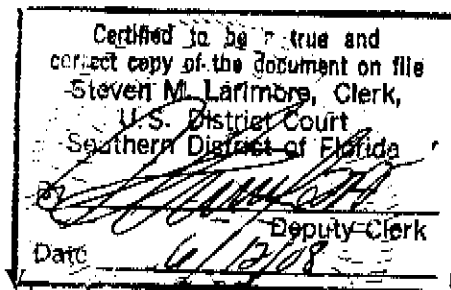
Federal Correctional Institution
Unit C

PO Box 779800

Miami, FL 33177-0200

ppp

PRO SE

**Respondent****Federal Correctional Institution***Mr. Jorge Pastrana, Warden*represented by **Noticing 2241 US Attorney**

Email: usafls-2255@usdoj.gov

LEAD ATTORNEY**ATTORNEY TO BE NOTICED**
08CV3505
JUDGE LEINENWEBER
MAGISTRATE JUDGE COX

Date Filed	#	Docket Text
05/07/2008	● 1	PETITION for Writ of Habeas Corpus Pursuant to 28 USC 2241 ; no fee paid, filed by Duane R. Olson.(lh) (Entered: 05/07/2008)
05/07/2008	● 2	Clerks Notice Referring Case to Magistrate Judge Patrick A. White (lh) (Entered: 05/07/2008)
05/15/2008	● 3	REPORT AND RECOMMENDATION TRANSFER OF VENUE on 28 USC 2255 case. Recommending that this case be transferred to the United States District Court for the Northern District of Illinois, Eastern Division, pursuant to 28 U.S.C. 1631. Objections to R&R due by

		5/30/2008.Signed by Magistrate Judge Patrick A. White on 05/15/08.(tw) (Entered: 05/15/2008)
05/20/2008	●4	MOTION to move the Court to Act re 1 Petition for Writ of Habeas Corpus by Duane R. Olson. (ail) (Entered: 05/20/2008)
05/28/2008	●5	OBJECTION to 3 Report and Recommendations by Duane R. Olson. (ail) (Entered: 05/28/2008)
06/04/2008	●6	ORDER ADOPTING REPORT AND RECOMMENDATIONS for 3 Report and Recommendations. Case Closed and Transferred to USDC of Illinois.. Signed by Judge Alan S. Gold on 6/4/08. (ail) (Entered: 06/04/2008)
06/10/2008	1●7	MOTION Motion to Move the Court to Answer re 1 Petition for Writ of Habeas Corpus by Duane R. Olson. (ail) (Entered: 06/11/2008)
06/12/2008	●8	Transmittal Letter Sent, To: United State District Court of Illinois (ail) (Entered: 06/12/2008)

A F F I D A V I T and D I S C L A I M E R

I, DUANE R. OLSON, do hereby Swear and Certify, under the pain and penalty for perjury, Prescribed in Title 28, United States Code, Section 1746;

That I am an Individual and Citizen of the Sovereign State of Florida, and NOT subject to any real, imaginary, or quasi statutory regulations Enacted by the Ninety-First Congress, Enforced by the Executive Branch, and Punished by the Judicial Branch, of the FEDERAL CORPORATION and GOVERNMENT of the UNITED STATES of AMERICA;

That as an Individual, I Stand Upon My Rights such as Existed by Common Law long antecedent to the Organization of the Republic of the United States of America, and;

I Stand Upon My Constitutional Rights Guaranteed by the Original Ten (10) Articles of Amendment thereto; that My Common Law Rights can ONLY be "taken-away" from Me by "due process of law" and in accordance with the Constitution.

Further . . .

That I have NEVER Signed ANY Contract or other Obligation with the Attorney General of the United States, or the DRUG ENFORCEMENT AGENCY (DEA) of the United States Department of Justice, that would bind Me to the "regulatory-jurisdiction" Elements of the DEA'S DIVERSION CONTROL PROGRAM, FORM 224A, (See -iii-) of

AFFIDAVIT and DISCLAIMER (Continued)

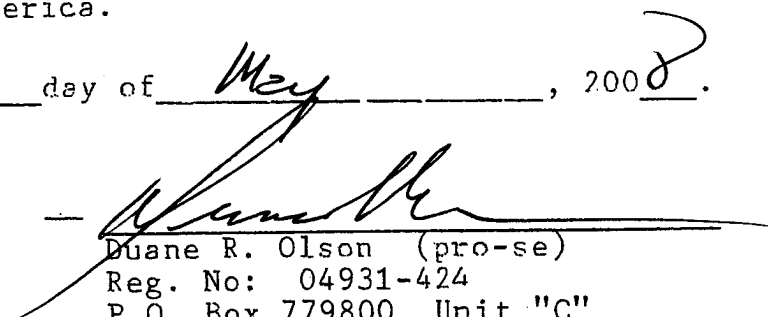
Public Law: 91-513, THE COMPREHENSIVE DRUG ABUSE and PREVENTION ACT of 1970, Short Title, CONTROLLED SUBSTANCE ACT, (CSA), Codified and Amended to the FOOD and DRUGS ACT as Title 21, United States Code, Section(s) 801., et., al., and;

Finally . . .

That I have never Surrendered ANY of My Sovereign, Personal, or "[u]nalienable Rights" to the Central Government of the Republic of the United States of America.

Executed on this 1st day of May, 2008.

Affiant


Duane R. Olson (pro-se)
Reg. No: 04931-424
P.O. Box 779800 Unit "C"
Federal Correctional Institution
Miami, Florida 33177



Drug Enforcement Administration

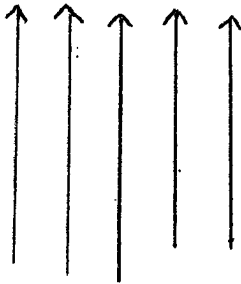
DIVERSION CONTROL PROGRAM

DEA FORM 224A

HELP

Federal registration by DEA is based upon the applicant being in compliance with applicable state and local laws. Applicants should contact the local state licensing authority prior to completing this application. If your state requires a separate controlled substance license, provide the number.

General Instructions.



3. State Licenses

All applicants are required to answer the following:

Are you currently authorized to prescribe, distribute, dispense, conduct research, or otherwise handle the controlled substances in the schedules for which you are applying under the laws of the state or jurisdiction in which you are operating or propose to operate?

* State License

☒ Yes

State License No. [REDACTED]

State Controlled Substance License

☐ Yes

State Controlled Substance No. [REDACTED]

Fields with a () are required.*

[REDACTED]

[REDACTED]

[REDACTED]

NOTE HEADING: **"DIVERSION CONTROL PROGRAM"**

US-V-OLSON, ET AL PROCEEDINGS

11 filed appearance of DEUTSCH, MICHAEL as attorney for defendant (Dkt'd 07/09/90).

15 Motion by government filed (MOT#1) (Government's emergency motion for revocation of release orders.) (Dkt'd 07/11/90).

18 Motion by government granted (MOT#1) (Government's emergency motion for revocation of release orders continued from July 6, 1990 is granted. Defendant's are hereby ordered detained before trial.) (JUDGE LINDBERG) (Dkt'd 07/18/90).
Bail not allowed (Defendant's are hereby ordered detained pending trial.) (JUDGE LINDBERG) (Dkt'd 07/18/90).

19 filed transcript of proceedings for 07/03/90 (1 vol.) (Dkt'd 07/23/90).

20 Order filed (Draft. Enter detention order: Defendants, Duane R. Olson and George A. Morris, shall be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, in from persons awaiting or serving sentences or being held custody pending appeal. The defendant shall be afforded reasonable opportunity for private consultation with counsel, and on order of a Court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendants are confined shall deliver the defendants to a U.S. Marshal for the purpose of an appearance in connection with a court proceeding.) (JUDGE LINDBERG) (Dkt'd 07/26/90).

21 Case assigned to JUDGE ZAGEL (Magistrate Leftow designated. (Dkt'd 07/27/90).
22 filed indictment (Dkt'd 07/27/90) (CHIEF JUDGE Bail not allowed (Detained by Magistrate.) (CHIEF JUDGE MORAN) (Dkt'd 07/27/90).
23 - filed criminal designation sheet. (fel. cat. II). (Dkt'd 07/27/90).

24 Arraignment and plea set for 07/30/90 a 10:00 AM (Counts 1, 2,3) (Dkt'd 07/27/90).

25 Arraignment and plea reset to 07/31/90 a 10:00 AM (Counts 1, 2,3) (JUDGE ZAGEL) (Dkt'd 08/01/90).

26 Arraignment held (Counts 1,2,3) (JUDGE ZAGEL) (Dkt'd 08/03/90).
26 Defendant's first appearance (JUDGE ZAGEL) (Dkt'd 08/03/90).

ACTIVE CRIMIT
CR-90-00577-01

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ACTIVE CRIMINAL

ILL-N(CHICAGO) 05/16/92

CR-90-00577-01

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*** GRID #16 ***

CR-90-00577-01

US-V-OLSON, ET AL

PROCEEDINGS

trial held-jury (Counts 1,2,3) (JUDGE ZAGEL) (Dkt'd 05/01/91)

Jury trial adjourned to 05/01/91 at 8:30 AM (Counts 1,2,3) (JUDGE ZAGEL) (Dkt'd 05/01/91) is directed to PRY for one

Order filed (The Clerk of Court for fourteen jurors coffee, rolls, and chips (JUDGE ZAGEL) (Dkt'd 05/01/91).

juror excused due to illness.

trial held-jury (Counts 1,2,3) (both sides rest.) (JUDGE ZAGEL) (Dkt'd 05/07/91) at 10:00 AM (Counts 1,2,3)

Jury trial adjourned to 05/07/91 is directed to PRY for (JUDGE ZAGEL) (Dkt'd 05/07/91) is directed to PRY for

Order filed (The Clerk of Court for thirteen jurors coffee, rolls, and chips (JUDGE ZAGEL) (Dkt'd 05/07/91).

trial held-jury (Counts 1,2,3) (closing arguments made) (Jury instructed and deliberations begin. Alternate juror discharged.) (JUDGE ZAGEL) (Dkt'd 05/07/91).

Order filed (The Clerk of Court is directed to PRY for coffee, rolls, and chips for thirteen jurors.) (JUDGE ZAGEL) (Dkt'd 05/07/91).

trial held-jury (Counts 1,2,3) (JUDGE ZAGEL) (Dkt'd 05/07/91) is directed to PRY for

Order filed (The Clerk of Court is directed to PRY for coffee, rolls, and chips for twelve jurors.) (JUDGE ZAGEL) (Dkt'd 05/07/91).

trial held-jury (Counts 1,2,3) (JUDGE ZAGEL) (Dkt'd 05/07/91) is directed to PRY for

Order filed (The Clerk of Court is directed to PRY for coffee, rolls, and chips for twelve jurors.) (JUDGE ZAGEL) (Dkt'd 05/07/91).

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Order filed (The Clerk of Court is directed to PRY for coffee, rolls, and chips for twelve jurors.) (JUDGE ZAGEL) (Dkt'd 05/07/91).

trial held-jury (Counts 1,2,3) (JUDGE ZAGEL) (Dkt'd 05/07/91) is directed to PRY for

ACTIVE CRIMINAL

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ACTIVE CRIMINAL

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ACTIVE CRIMINAL DOCKETS ILL-N(CHICAGO) 05/16/92 *** GRID 616 PAGE 11
 CR-90-00577-01 US-V-OLSON, ET AL PROCEEDINGS

attached.) (dkt'd 08/22/91).

08/13/91 102 Sentencing reset to 09/10/91 a 2:00 PM (Counts 1-3) (JUDGE ZAGEL) (dkt'd 08/22/91).

09/10/91 106 Sentencing reset to 09/11/91 a 11:30 AM (Counts 1,2,3) (JUDGE ZAGEL) (dkt'd 09/20/91).

09/11/91 107 Order filed (defendant's motion for finding of governmental misconduct is denied.) (JUDGE ZAGEL) (dkt'd 09/25/91).
 109 Motion made in open court for appointment of counsel (MOT#26) (Gregory Schlesinger, motion is continued until further order of court.) (JUDGE ZAGEL) (dkt'd 10/02/91).
 >>>>>>110 Sentencing of defendant (Counts 1-3) (The sentence is 15 years imposed pursuant to the Sentencing Reform Act of 1984. It is ordered that the defendant shall pay a special assessment of \$150.00, for counts 1, 2 and 3, which shall be due immediately. The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of THREE HUNDRED TWENTY-FOUR (324) MONTHS. Said term of imprisonment to be served concurrently on each counts 1, 2 and 3. The defendant is remanded to the custody of the United States marshal. Upon release from imprisonment, the defendant shall be on supervised release for a term of TEN (10) YEARS on each of counts 1, 2 and 3. Said term of supervised release to be served concurrently. Statement of Reasons.) (JUDGE ZAGEL) (dkt'd 10/02/91).
 >>>>>>

09/17/91 112 Filed notice of appeal (Counts 1-3) (APPL#1) (dkt'd 10/02/91).
 113 - filed 9/17/91 jurisdictional statement. (dkt'd 10/02/91).

09/24/91 115 Motion filed (MOT#27) (for confinement within the Northern District of Illinois, with notice of filing attached.) (dkt'd 10/02/91).

09/25/91 Issued judgment and commitment to U.S. Marshal (Counts 1-3) (dkt'd 10/02/91).

10/03/91 116 Notice of appeal and docket entries transmitted to USCA (APPL#1) (dkt'd 10/03/91).
 117 - (APPL#1) (Filed letter mailed to appellant regarding Circuit Rule 3(c).) (dkt'd 10/03/91).

10/07/91 120 U.S. Court of Appeals docket number (91-3269) (dkt'd 10/09/91).

AN EXTRAORDINARY REQUEST

FOR AN IN CAMERA INSPECTION AND INVESTIGATION,
by
UNITED STATES DISTRICT COURT JUDGE,
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION,
THE HONORABLE JAMES B. ZAGEL.

April 17, 2008

REGISTERED MAIL
7004 2890 0002 3348 1328
RETURN RECEIPT REQUESTED

Subject: DUANE R. OLSON/CRIMINAL CASE NO: 90-cr-577

Your Honor;

I don't know if this procedure is acceptable jurisprudence or not, however, **extraordinary** circumstances require **extraordinary** action, and I believe I have 'discovered', for the want of a better word, a **fatal-flaw** in the "due process" Requirements of the Fifth and Sixth Amendment "Rights" of . . . 'any person' . . . accused by the Government of the United States, to be; "[i]n violation of Title 21, United States Code, Section 841(a)(1)".

IF My '**discovery**' is correct, it will be a Matter of National Interest and Concern for hundreds of thousands of Men and Women from nearly every Nation on this Planet, with the potential at least, of self-elevating to A MATTER OF NATIONAL SECURITY!

While I have little Sympathy for the "MOVERS and SHAKERS", from the Executive and Judicial who Constructed this **FRAUD** I am . . . none-the-less . . . a Patriot who Loves this Still Young Republic "**WE**" like to call America . . .

THEREFORE . . .

-vii-

AN EXTRAORDINARY REQUEST
For U.S. District Court Judge,
The Honorable, JAMES B. ZAGEL

I am Offering My 'discovery' for Your Honor's Inspection and Investigation, to determine whether or not, My WRIT of HABEAS CORPUS Ought to be filed in Open Court, or "kicked up-stairs" first . . . for damage control . . .

Receiving **NO** Response from Your Honor's Chambers by May 1, 2008, I will Presume Your Honor to have NO Interest and I will proceed to Engage the Legal Talents of a well Respected Post-Conviction Attorney.

I trust this letter will be Interpreted with the same Sincere Consideration that went into its Construction.

Respectfully,

[Signature]
Duane R. Olson
Reg. No: 04931-424
P.O. Box 779800 Unit "C"
Federal Correctional Institution
Miami, Florida 33177-0200

U.S. Postal Service TM	
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For delivery information visit our website at www.usps.com	
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Postage \$ <u>7.14</u>	Postmark Here
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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To DUANE R. OLSON UNIT "C"	
Street, Apt. No., or PO Box No. REG. NO: 04931-424	
City, State, ZIP+4	

SENDER: COMPLETE THIS SECTION	
1. Article Addressed to: THE HONORABLE JAMES B. ZAGEL U.S. DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION 219 SOUTH DEARBORN STREET CHICAGO, ILLINOIS 60603	
2. Article No. PS Form 3	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
COMPLETE THIS SECTION ON DELIVERY A. Received by (Please Print Clearly) _____ B. Date of Delivery _____ C. Signature <i>[Signature]</i> <input type="checkbox"/> Agent D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	

-viii-

92ET 94EE 2000 0692 4002

OPENING STATEMENT

COMES NOW, DUANE R. OLSON, (hereafter-Olson) in propria persona and want of Competent Counsel, to Respectfully File this Application for Habeas Corpus Relief Pursuant to Title 28, United States Code, Section 2241(c)(3), which states in relevant part;

"(c) The writ of habeas corpus shall not extend to a prisoner unless —

(3) He is in custody in violation of the Constitution or laws or treaties of the United States;"

On September 11, 1991, In United States District Court for the Northern District of Illinois, Eastern Division, Chicago, United States District Court Judge, The Honorable JAMES B. ZAGEL Presiding;

1). The Court did Impose a term of **324-months** in federal prison without parole, followed by Ten **(10)** years Supervised Release, 2). "[f]or an act of Congress", 3). "[i]n violation of the Constitution", 4). In violation of the "[l]aws of the United States", 5). In violation of Olson's Fifth and Sixth Amendment Rights, 6). In violation of American Jurisprudence Practiced in this Nation for over 200-years, 7). Repugnant to the Framers's Intent, 8). For Conduct NEVER Admitted by Olson and NEVER FOUND or AUTHORIZED by a jury of Olson's peers.

Olson's Theory of Constitution Law and Strategy of Argument Presented hereafter, is "[s]o novel that its legal basis is not reasonably available to counsel" (Reed v. Ross; 82 L Ed 2d 1) yet, It is a "STANDARD" of American Criminal Jurisprudence Practiced in this Nation for over 200-years.

Olson will rely on His Perpetual Protections Secured in the language of the Constitution for the United States, Guaranteed by the Original Ten (10) Articles of Amendment thereto, and Adjudicated Facts Opined by the Supreme Law of the Land, Supported by the prima facia evidence of Official Government documents, and District Court Records and transcripts hereto attached;

To prove "beyond a reasonable doubt", and to this Court's Complete Satisfaction, that Olson has been Convicted of Conduct "[t]hat the law (standing alone) does not make criminal" Davis v. U.S.; 41 L Ed 2d 109 (1974) and Sentenced to a term of 324-months in federal prison...without parole...for Conduct NEVER admitted, NEVER FOUND, or NEVER AUTHORIZED by a jury of Olson's peers . . .

THEREFORE . . .

IF Olson was "presumed-innocent" until every element necessary to constitute the punishment prescribed in Title 21, United States Code, Section 841(b) for; "[a]ny person who violates subsection (a) of this section" is proven . . . "beyond a reasonable doubt"; Then . . .

Olson remains procedurally, legally, constitutionally, actually, and factually . . . INNOCENT . . . of the 'crime' for which the District Court Imposed a term of 324-months in federal prison nearly 18 years ago!

"In other words, [Olson] contends that the Record reveals that neither he, nor his counsel, nor the Court, Correctly understood the essential elements of the crime" for which the Court Imposed Punishment. Bousley v. U.S.; 140 L Ed 2d 828 @ 837 (1998).

JURISDICTION

Jurisdiction to Hear, Adjudicate, and Render an Opinion on Olson's Application for Habeas Corpus Relief, is Conferred upon this Court by Virtue of Title 28, United States Code, Section 2241(c)(3)., and . . .

"Petitioners in habeas corpus proceedings, as the Congress and this Court have emphasized, are entitled to careful consideration and plenary processing of their claims including full opportunity for presentation of the relevant facts." Harris v. Nelson; 22 L Ed 2d 281 @ 290 (1969).

Olson would Rely on Bousley v. United States; 140 L Ed 2d 828 (May 18, 1998) Quoting; Murray v. Carrier; 91 L Ed 2d 397, @ 413 [9] (June 26, 1986) Quoting; Engle v. Isaac; 71 L Ed 2d 7832 (1982), "However, as we also noted in Engle, '[i]n appropriate

cases' the principles of comity and finality that inform the concepts of cause and prejudice 'must yield to the imperative of correcting a fundamentally **unjust incarceration**'." (Eph. added)

Finally, The Supreme's Promised that; "This Court has never held, however, that finality, standing alone, provides a sufficient reason for federal courts to compromise their protection of constitutional rights." Reed v. Ross; 82 L Ed 2d 1, @ 15.

Surely, the Ancient Principles of the Writ of Habeas Corpus Provide this Court with 'jurisdiction' to Investigate a federal prisoner's '**claim**' to be **innocent** of the '**crime**' for which he is Imprisoned . . . and IF Olson is able to prove "beyond a reasonable doubt" and to this Honorable Court's Complete Satisfaction, that Olson is actually and factually innocent of the '**crime**' for which the district court Imposed Punishment, then, Olson is Confident that this Court will Act to Correct this...**manifest miscarriage of justice**...as "[l]aw and justice require".

° ° °

?THE QUESTION?

I F it is TRUE . . . that a defendant in a federal criminal prosecution is "presumed-innocent", until "[a]ll the 'elements' necessary to constitute the offence intended to be punished" are proved "beyond a reasonable doubt" . . .

Does a federal prisoner, (herein Identified as **DUANE R. OLSON**) . . . remain . . . procedurally, legally, constitutionally, actually, and factually . . . **I N N O C E N T** . . . of the 'sentencing-element' of an offence NEVER Charged by Indictment, NEVER Denied by Olson, NEVER Admitted by Olson, NEVER proved by the prosecution, NEVER Charged in the Jury Instructions, and NEVER **FOUND** or **AUTHORIZED** by a jury of Olson's peers?

° ° °

AFFIDAVIT and STATEMENT OF FACT(S)
in
CRIMINAL CASE NO: 90 CR 577

In the Early Evening of June 25, 1990, Olson was arrested by Federal Drug Enforcement Agents (DEA) at the EMBASSY SUITES HOTEL, Lombard, Illinois, (a suburb of Chicago) during a cocaine transaction with a PAID informant.

On July 26, 1990, the Government filed a THREE COUNT Indictment. (Id., @ -iv-, Dkt # 21)(EXHIBITS [01] thru [05]).

Since all THREE COUNTS of Olson's Indictment contain the same **fatal-flaw**, in the interest of brevity, Olson will use COUNT TWO, EXHIBIT [04], for this demonstration . . .

The SPECIAL APRIL 1990 GRAND JURY Charges:

DUANE R. OLSON,

defendant herein, knowingly and intentionally did distribute and cause to be distributed approximately 250 grams of a mixture containing cocaine, a Schedule II Narcotic Drug Controlled Substance; In violation of Title 21, United States Code, Section 841(a)(1)."

Section 841(a)(1) of Title 21, is a 'negative' statute that makes it; "[u]nlawful for any person knowingly or intentionally" to possess, manufacture, distribute, or dispense, controlled substances "(a) Except as authorized by this subchapter" Referencing the "Authorized activities" of Title 21, United States Code, Sec-

tion 822(b)., a 'positive' statute that makes it 'lawful' for; "Persons registered by the Attorney General" to possess, manufacture, distribute, or dispense, controlled substances..."[t]o the extent authorized by their registration".

Title 21, United States Code, Section 841(b) Prescribes the Penalties for "[a]ny person who violates subsection (a) of this section . . ."

The actus reus/mens rea elements essential to be proved "beyond a reasonable doubt" by the prosecution to sustain a Conviction and Satisfy the "due process" Clause of Olson's Fifth Amendment "rights" and the "nature and cause of the accusation" Clause of Olson's Sixth Amendment "rights" are; 1). to knowingly or intentionally possess, manufacture, distribute, or dispense, a substance known to be controlled, 2). in a manner not authorized.

Careful Examination and Analysis of Olson's THREE COUNT Indictment at EXHIBITS [01-02-03-04-05] reveal that the SPECIAL APRIL 1990 GRAND JURY failed to 'inform' Olson, "[w]ith reasonable certainty of the 'nature' of the accusation against him [and] without any uncertainty or ambiguity, set forth all the elements necessary to constitute the offense intended to be punished". Russell v. U.S.; 8 L ed 2d 240)(U.S. v. Cruikshank; 23 L ed 588 @ 593)(U.S. v. Simmons; 24 L ed 819, 820)(U.S. v. Carl; 26 L ed 1135).

It is interesting to note, that from Oct. 26, 1981, Outler; 659 F 2d 1306 until July 29, 1998, Steele; 147 F 3d 1316 and for

a period of **17-years**, the Eleventh Circuit Opined;

"We now conclude that this element [**Except as authorized**] is essential to a charge of the offense***here the element embodies the culpability of the offense*** without behavior beyond professional practice, **THERE IS NO CRIME.**" (Emphasis added)

While the Circumstance of Dr. Outler and the Pharmacist Mr. Steele relative to the **Burden of proof exemption** (21 U.S.C. § 885) may have Changed the Opinion of the Eleventh Circuit over those **17-years**, the essential elements of a "Complete-Crime" in the language of the Statute, Section 841(a)(1) DID NOT and furthermore . . . **Olson is not a registrant!** (See Id., @ -i-ii-)

At any rate, **NO** reasonable thinking person from the Legal Community would ever Champion an Argument that Congress has any Power to "take-away" Olson's Perpetual Protection(s) Secured by the Constitution and Guaranteed by the Original Ten Articles of Amendment thereto.

"It is difficult to imagine a case in which an indictment's insufficiency resulted so clearly in the indictment's **failure** to fulfill its primary office—to inform the defendant of the nature of the accusation against him." Russell v. U.S.; 8 L ed 2d 240 @ 252

Unaware of the TRUE 'nature' of His "crime", Olson went to trial with the Chief Issue . . . **undefined** . . . and a **failed defense** of "entrapment"!

On May 2, 1991, (Dkt # 93, Id., @ -v-) and after closing arguments by both sides, the "JURY INSTRUCTIONS" were read by the Court and directed to the jury of Olson's peers; **EXHIBITS [06] thru [14]** and in relevant part hereafter;

Court: "It is your duty to follow these instructions. You must not question any rule of law stated by me in these instructions."

Olson's Comment: During the jury selection phase, Olson recalls no jurer interviewed and selected to have claimed any legal knowledge.

Court: "In Count 2 of the indictment Duane Olson is charged with the distribution of cocaine. Title 21, United States Code, Section 841(a)(1)., provides in pertinent part;"

"It shall be unlawful for any person knowingly or intentionally to distribute or dispense a controlled substance." **EXHIBIT [10][11]**

Comment: Here, the Court's "truncated-version" of the Statute, Section 841(a)(1)., ORALLY 'amends' a Congressionally enacted Statute to make it; "[u]nlawful" for Olson, a Practitioner, a Pharmacist, or any person* to "[k]nowingly or intentionally distribute or dispense a controlled substance".

* any person — as used with the asterisk* hereafter, means any person at random, Citizen or Foreign National, within the boundaries of the United States, its Territories, and/or Possessions.

Court: "In Count 3 of the indictment defendant Duane Olson [is] charged with possession of cocaine with the intent to distribute. Title 21 of the United States Code provides in pertinent part;"

"It shall be unlawful for any person* knowingly and intentionally to distribute or dispense***a controlled substance." **EXHIBIT [12]**

Comment: IT DOES NOT! Here, the Court ORALLY 'fabricates' the Congressionally Enacted Statute, Section 841(a)(1)., to Support the Indictment's "IMPLICATION" that Olson's Conduct is... UNLAWFUL... a class-room/text-book Example of; THE DOCTRINE of CONSTRUCTIVE IMPLICATION!

In Bousley v. U.S.; 140 L Ed 2d 828, @ 839, Quoting Davis v. U.S.; 41 L Ed 2d 109, U.S. v. Lanier; 137 L Ed 2d 432, and U.S. v. Hudson; 7 Cranch 32, 3 L Ed 259 (1812) the Supreme Court said; "For under our federal system it is only Congress, and not the courts, which can make conduct criminal."

"If it lies within the province of a court to change the charging part of an indictment to suit its own notions of what it ought to have been, or what the grand jury would probably have made it if their attention had been called to suggested changes, the great importance which the common law attaches to an indictment by a grand jury, as a prerequisite to a prisoner's trial for a crime, and without which the Constitution says 'no person shall be held to answer', may be frittered away until its value is almost destroyed." Ex parte Bain; L ed 849, U.S. v. Norris; 74 L ed 1076 Stirone v. U.S.; 4 L ed 2d 252.

Court: "I instruct you now that you are not to begin deliberations under any circumstances until that time that you receive from the Marshal the written instructions which I've just read..."

EXHIBIT [14]

Comment: NOW, the Court has **Memorialized in Writing** the Court's '**fabricated-version**' of the Statute, Section 841(a)(1) to **IMPLY** and **COMPLY** with the Indictment's '**truncated-version**' that Olson's Conduct is . . . **UNLAWFUL!**

With the Court's threat "not to question***the written instructions which I've just read" . . . not Surprisingly . . . the jury "followed" the Court's Instructions and used the "[f]irst verdict form" to "[f]ind the defendant, DUANE R. OLSON, guilty as Charged in the indictment" . . . that is to say . . . the jury **FOUND Olson GUILTY of Conduct that NO federal law makes a crime or prescribes punishment for . . . but . . . the Court did both!**

EXHIBIT]14]

On September 11, 1991, In United States District Court for the Northern District of Illinois, Eastern Division, Chicago, District Court Judge, The Honorable **JAMES B. ZAGEL**, Presiding, Imposed a Term of **324-months** Imprisonment plus **10-years** Supervised Release upon Olson; **EXHIBITS [15] thru [19]**, for Conduct **FOUND** by Olson's jury, to be; "[i]n violation of Title 21, United States Code, Section 841(a)(1)" . . .

Pursuant to the **Penalties** Prescribed in Title 21 USC § 841(b) "[f]or any person who violates subsection (a) of this Section",

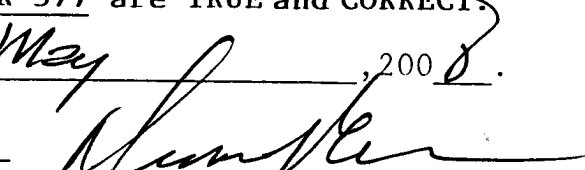
Referencing § 841(a) "(a) Except as authorized by this subchapter," Referencing; § 822(b); which makes it 'lawful' for Persons "[i]n compliance with State and Local Laws" and registered with the Attorney General, to possess, manufacture, distribute, or dispense, controlled substances "[t]o the extent 'authorized' by their registration" Referencing; § 821 for "[r]egulated persons and of regulated transactions". (Id., @ -iii-)

I F it's TRUE that the defendant in a criminal prosecution is 'presumed-innocent' until; "[a]ll the elements necessary to constitute the offence intended to be punished" are proved "beyond a reasonable doubt", then the Official Government Documents Presented to the Court herein, furnish the Court with the Indisputable and UN-questionable prima facia Evidence, that Olson is Serving a 324-month Term of Imprisonment for a "CRIME" . . . NEVER Charged by the Government's lawyers . . . NEVER Charged by the Grand Jury's Indictment . . . NEVER denied by Olson . . . NEVER Admitted by Olson . . . NEVER proved "beyond a reasonable doubt" . . . NEVER Charged in the Jury Instructions and . . . NEVER FOUND by a Jury of Olson's peers, thus, the Jury's Verdict alone DOES NOT 'AUTHORIZE' the Court's Sentence of 324-months Imposed upon Olson!

I, DUANE R. OLSON, hereby Swear and Certify, under the Pains and Penalties Prescribed for Perjury in Title 28, United States Code, Section 1746., that the foregoing AFFIDAVIT and STATEMENT of FACT(S) in CRIMINAL CASE NO: 90 CR 577 are TRUE and CORRECT.

Executed on this 1st day of May, 2008.

Applicant/Prisoner/Affiant


Duane R. Olson (pro-se)
Reg. No: 04931-424

CONCLUSION

Olson believes He has Presented this Honorable Court with a Convincing and Conclusive Argument Supported by Official Government Documents, Court Records, and Court Transcripts, that Olson has Served nearly 18-years of a 27-year Sentence in Federal Prison for a "CRIME" NEVER "NOTICED" by the Prosecutors, the SPECIAL APRIL 1990 GRAND JURY, Olson's Counsel, Olson, the District Court, nor . . . the jury of Olson's peers, and . . . **THEREFORE** . . . Olson **DECLARES** that He is procedurally, legally, constitutionally, actually, and factually . . . **INNOCENT** . . . of the "CRIME" for which Olson is now Imprisoned, and . . .

IF this United States District Court for the Southern District of Florida, Miami Division, Intends to Remain **TRUE** to the Framers' Intent to "[f]orm a more perfect Union, establish Justice***and secure the Blessings of Liberty to ourselves and our Posterity", then Olson would Invite this Court to Carefully Scrutinize Olson's DECLARATION of **INNOCENCE** and ACT Accordingly . . . as "[l]aw and justice require".

° ° °

**AN APPLICATION FOR
WRIT OF HABEAS CORPUS RELIEF**

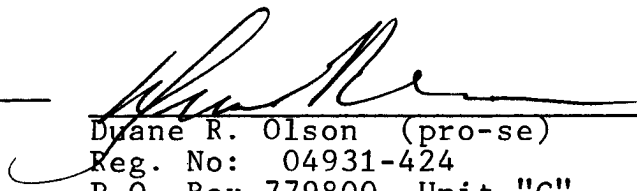
The Applicant and Prisoner herein Identified as DUANE R. OLSON, Respectfully Request's this Honorable Court;

1). To ISSUE an ORDER for the Government's lawyer(s) to SHOW CAUSE WHY Olson should NOT be released from IL-legal, UN-constitutional and FALSE Imprisonment forthwith, and further;

2). Award whatever other Benefits this Honorable Court deems to be Appropriate and Equitable for 18-years of IL-legal and UN-constitutional FALSE Imprisonment!

Respectfully Submitted,

Applicant/Prisoner


Duane R. Olson (pro-se)
Reg. No: 04931-424
P.O. Box 779800 Unit "C"
Federal Correctional Institution
Miami, Florida 33177-0200

CERTIFICATE OF SERVICE


I, DUANE R. OLSON, hereby Swear and Certify, Pursuant to the Penalties Prescribed for Perjury in Title 21 U.S.C. § 1746, that a TRUE and CORRECT Copy of the foregoing Fourteen (14) pages of this Application for Habeas Corpus Relief, was mailed First Class, Postage Pre-paid, to the following Interested Party(s);

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
COURTHOUSE SQUARE
301 NORTH MIAMI AVENUE
MIAMI, FLORIDA 33128-7788

UNITED STATES ATTORNEY
99 N.E. 4th STREET
MIAMI, FLORIDA 33132

Executed on this 1st day of May, 2008.

Prisoner/Affiant —


Duane R. Olson (pro-se)
Reg. No: 04931-424
P.O. Box 779800 Unit "C"
Federal Correctional Institution
Miami, Florida 33177-0200

IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

DUANE R. OLSON,
Applicant/Prisoner,

Versus

MR. JORGE PASTRANA, WARDEN,
Representing,
THE UNITED STATES OF AMERICA,
Respondent/Defendant.

REGISTERED MAIL
7006 0810 0004 9229 4163
RETURN RECEIPT REQUESTED

CIVIL ACTION: _____

EXHIBITS

<u>EXHIBIT</u>							<u>PAGE</u>
INDICTMENT	*	*	*	*	*	*	[01] THRU [05]
JURY INSTRUCTIONS		*	*	*	*	*	[06] THRU [14]
COURT'S SENTENCE		*	*	*	*	*	[15] THRU [16]
JUDGMENT & COMMITMENT	*	*	*	*	*	*	[17] THRU [18]

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JUL 26 1990 9/18 G
No.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ZAGEL

UNITED STATES OF AMERICA

v.

DUANE R. OLSON,
also known as Duke,
(hereinafter in this indictment
referred to only as
Duane R. Olson), and
GEORGE A. MORRIS

No. 90 CR 577
Violations: Title 21,
United States Code,
Sections 846 and 841(a)(1),
and Title 18, United
States Code, Section 2

9/25/ stat

COUNT ONE

The SPECIAL APRIL 1990 GRAND JURY charges:

1. From on or about January 30, 1990, until on or about June 26, 1990, at Chicago and Lombard, in the Northern District of Illinois, Eastern Division, and elsewhere:

DUANE R. OLSON and
GEORGE A. MORRIS,

defendants herein, did conspire with each other and with others unknown to the Grand Jury, knowingly and intentionally to possess with intent to distribute and to distribute approximately 17 kilograms of mixtures containing cocaine, a Schedule II Narcotic Drug Controlled Substance, in violation of Title 21, United States Code, Section 841(a)(1).

2. It was part of the conspiracy that defendants DUANE R. OLSON and GEORGE A. MORRIS, possessed with the intent to distribute and distributed quantities of mixtures containing cocaine.

3. It was further part of the conspiracy that on or about June 21, 1990, defendant DUANE R. OLSON distributed approximately

EXHIBIT [01]

250 grams of cocaine to another person (hereinafter "cooperating individual"), who was secretly cooperating with the United States Drug Enforcement Administration and was posing as a drug dealer, in exchange for \$6,500 in cash.

4. It was further part of the conspiracy that on or about June 22, 1990, defendant DUANE R. OLSON met with the cooperating individual, and negotiated to sell the cooperating individual kilogram quantities of cocaine.

5. It was further part of the conspiracy that on or about June 22, 1990, defendant GEORGE A. MORRIS drove from the Northern District of Illinois to Florida to pick up kilograms of cocaine.

6. It was further part of the conspiracy that on or about June 25 and 26, 1990, defendant GEORGE A. MORRIS drove a car containing approximately 16 3/4 kilograms of cocaine from Florida to Lombard, Illinois.

7. It was further part of the conspiracy that on or about June 26, 1990, defendant DUANE R. OLSON and GEORGE A. MORRIS showed approximately 9 3/4 kilograms of cocaine to the cooperating individual.

8. It was further part of the conspiracy that on or about June 26, 1990, defendant GEORGE A. MORRIS, while in possession of the 9 3/4 kilograms of cocaine, met with the cooperating individual for the purpose of delivering the cocaine to the cooperating individual in exchange for \$253,000.

9. It was further part of the conspiracy that on or about June 26, 1990, defendants DUANE R. OLSON and GEORGE A. MORRIS

possessed an additional quantity of cocaine, approximately seven kilograms, which they intended to sell at a later date.

10. It was further part of the conspiracy that the defendants misrepresented, concealed and hid, and caused to be misrepresented, concealed and hidden, the purposes of and the acts done in furtherance of the conspiracy and used coded language, surveillance and counter-surveillance techniques, and other means to avoid detection by law enforcement authorities and otherwise to provide security to the members of the conspiracy.

In violation of Title 21, United States Code, Section 846.

COUNT TWO

The SPECIAL APRIL 1990 GRAND JURY further charges:

On or about June 21, 1990, in the Northern District of Illinois, Eastern Division,

DUANE R. OLSON,

defendant herein, knowingly and intentionally did distribute and cause to be distributed approximately 250 grams of a mixture containing cocaine, a Schedule II Narcotic Drug Controlled Substance;

In violation of Title 21, United States Code, Section 841(a)(1).

COUNT THREE

The SPECIAL APRIL 1990 GRAND JURY further charges:

On or about June 26, 1990, at Lombard, in the Northern District of Illinois, Eastern Division,

DUANE R. OLSON and
GEORGE A. MORRIS,

defendants herein, knowingly and intentionally possessed with intent to distribute approximately 16 3/4 kilograms of mixtures containing cocaine, a Schedule II Narcotic Drug Controlled Substance;

In violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2.

A TRUE BILL:

F O R E P E R S O N

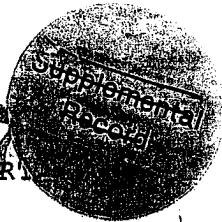
UNITED STATES ATTORNEY

SPS:kjo

97-0203
97-0270
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99-357

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION



DOCKETED

NOV 27 1991

UNITED STATES OF AMERICA,



99-3574-T11

FILED

NOV 27 1991

No 90 CR 577

JOHN OLSON and GEORGE MORRIS,)
H. STUART CUNNINGHAM, Clerk)
Chicago, Illinois)
May 2, 1991)
1:00 p.m.)
Defendants. UNITED STATES DISTRICT COURT)
Trial)

U.S.C.A. - 7th Circuit
FILED

THOMAS F. STRUBBE
CLERK

VOLUME 6 - PM SESSION
TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE JAMES B. ZAGEL, and a Trial

APPEARANCES:

For the Government:

HON. FRED L. FOREMAN
United States Attorney, by
MR. RONALD E. SAFER
MS. JULIA E. GETZELS
Assistant United States Attorneys
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Chicago, Illinois 60604

For Defendant Olson:

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Suite 1708
Chicago, Illinois 60601

For Defendant Morris:

MR. DANIEL G. MARTIN
MR. JOHN F. MURPHY
219 South Dearborn Street
Room 1142
Chicago, Illinois 60604

Ma L. Barnes
Social Court Reporter
South Dearborn Street
Chicago, Illinois 60604
435-5568

U. S. COURT OF APPEALS

Seventh Circuit

Transcripts Vol. 27 of 28

U.S.C.A. - 7th Circuit
FILED

DEC - 2 1999 PMS
GINO J. AGNELLO
CLERK

RECEIVED

DEC 10 1992
H. STUART CUNNINGHAM
UNITED STATES DISTRICT COURT

EXHIBIT [06]

Jury Instructions

1 instruct you as to the law applicable to this case.

2 It is your duty to follow all of these instructions. You
3 must not question any rule of law stated by me in these
4 instructions. Regardless of any opinion you may have as to
5 what the law ought to be, you must base your verdict upon the
6 law given by me.

7 It is your duty to determine the facts from the evidence in
8 this case. You are to apply the law given to you in these
9 instructions to the facts and in this way decide the case.

10 You are the sole judges of the credibility of the witnesses
11 and of the weight to be given to the testimony of each of them.
12 In considering the testimony of any witness you may take into
13 account the witness' intelligence, ability and opportunity to
14 observe, age, memory and manner while testifying, and any
15 interest, bias or prejudice the witness may have, and the
16 reasonableness of the witness' testimony considered in the
17 light of all the evidence in the case.

18 You should judge the testimony of the defendant in the same
19 manner as you judge the testimony of any other witness.

20 Neither by these instructions, nor by any ruling or remark
21 which I have made do I mean to indicate any opinion as to the
22 facts or as to what your verdict should be. You are the sole
23 and exclusive judges of the facts.

24 Opening statements of counsel are for the purpose of
25 acquainting you in advance with the facts counsel expect the

EXHIBIT [07]

Jury Instructions

1 Solicitation of the defendant to commit a crime by a
2 government agent is by itself not sufficient to establish the
3 entrapment defense.

4 Evidence that the defendant has been convicted of a crime
5 is to be considered by you only insofar as it may affect the
6 defendant's credibility as a witness and insofar as it bears on
7 the defendant's predisposition to commit the crimes charged. *
8 Beyond this it must not be considered by you as evidence of
9 guilt of the crime for which the defendant is on trial.

10 It is lawful for law enforcement officials to use and pay
11 cooperating individuals in the course of investigations. Law
12 enforcement officers and persons acting at the direction of law
13 enforcement officers in the course of official investigations
14 may legally employ investigative techniques that deceive. They
15 may also engage in conduct that would otherwise be unlawful if
16 done by non-law enforcement personnel.

17 Under the law the government is entitled to use stragins,
18 artifices, ruses, cooperating individuals and undercover agents
19 or investigators who may conceal their identity as agents of
20 the government.

21 It is also lawful for the government to obtain evidence
22 using a concealed tape recorder.

23 In Count 1 of the indictment defendants Duane Olson and
24 George Morris are charged with conspiracy to distribute and to
25 possess with intent to distribute cocaine. Title 21, United

EXHIBIT [08]

781

Jury Instructions

1 States Code, Section 846 provides in pertinent part:

2 "Any person who conspires to commit any offense
3 defined in this subchapter is guilty of an offense
4 against the United States."

5 The phrase offense defined in this chapter includes the
6 offenses of distributing or possessing with intent to
7 distribute cocaine.

8 In order to establish the offense of conspiracy against
9 defendant George Morris the government must prove these
10 elements beyond a reasonable doubt:

11 One, that the alleged conspiracy existed; and

12 Two, that the defendant knowingly and intentionally became
13 a member of the conspiracy.

14 If you find from your consideration of all the evidence
15 that each of these propositions has been proved beyond a
16 reasonable doubt, then you should find the defendant guilty.
17 If on the other hand you find from your consideration of all
18 the evidence that any of these propositions has not been proved
19 beyond a reasonable doubt, then you should find the defendant
20 not guilty.

21 A conspiracy is a combination of two or more persons to
22 accomplish an unlawful purpose. A conspiracy may be estab-
23 lished even if its purpose was not accomplished.

24 In determining whether the alleged conspiracy existed you
25 may consider the actions and statements of all the alleged

EXHIBIT [09]

Jury Instructions

1 beyond a reasonable doubt, then you should find the defendant
2 not guilty.

3 A conspiracy is a combination of two or more persons to
4 accomplish an unlawful purpose. A conspiracy may be estab-
5 lished even if its purpose was not accomplished. In deter-
6 mining whether the alleged conspiracy existed, you may consider
7 the actions and statements of all the alleged participants.
8 The agreement may be inferred from all the circumstances and
9 the conduct of all the alleged participants. Only the
10 defendant's own words and acts show whether he joined the
11 conspiracy, but you may consider the statements of all the
12 alleged participants to decide what it was that the defendant
13 did and said or to help you understand the defendant's acts and
14 words.

15 To be a member of the conspiracy the defendant need not
16 join at the beginning or know all the other members or the
17 means by which the purpose was to be accomplished.

18 The government must prove beyond a reasonable doubt that
19 the defendant was aware of the common purpose and was a willing
20 participant.

21 Mere association with conspirators or those involved in a
22 criminal enterprise and mere presence at the scene of the crime
23 are insufficient to establish defendant's participation in a
24 conspiracy.

25 In Count 2 of the indictment Duane Olson is charged with

Jury Instructions

1 the distribution of cocaine. Title 21, United States Code,
2 Section 841(a)(1) provides in pertinent part:

3 "It shall be unlawful for any person knowingly or
4 intentionally to distribute or dispense a controlled
5 substance."

6 To sustain a charge in Count 2 that defendant Duane Olson
7 distributed cocaine the government must prove the following
8 propositions beyond a reasonable doubt:

9 First,, that the defendant knowingly and intentionally
10 possessed a quantity of a mixture;

11 Second, that the defendant knew that the mixture contained
12 a controlled substance;

13 Third, that the defendant distributed the controlled
14 substance;

15 Fourth, that the defendant was not entrapped.

16 If you find from your consideration of all the evidence
17 that each of these propositions has been proved beyond a
18 reasonable doubt, then you should find the defendant guilty.

19 If on the other hand you find from your consideration of all
20 the evidence that any of these propositions has not been proved
21 beyond a reasonable doubt as to a particular count, then you
22 should find the defendant not guilty.

23 Distribution is the transfer of possession from one person
24 to another.

25 I instruct you that cocaine is a Schedule 2 narcotic drug

EXHIBIT [11] 4

Jury Instructions

1 controlled substance.

2 In Count 3 of the indictment defendants Duane Olson and
3 George Morris are charged with possession of cocaine with the
4 intent to distribute. Title 21 of the United States Code
5 provides in pertinent part:

6 "It shall be unlawful for any person knowingly and
7 intentionally to distribute or dispense or possess
8 with intent to distribute or dispense a controlled
9 substance."

10 To sustain the charge in Count 3 that Duane Olson possessed
11 cocaine with the intent to distribute the government must prove
12 the following propositions beyond a reasonable doubt:

13 First, that the defendant knowingly and intentionally
14 possessed the quantity of a mixture;

15 Second, that the defendant knew the mixture contained a
16 controlled substance;

17 Third, that the defendant possessed the controlled
18 substance with the intent to distribute it; and

19 Fourth, that the defendant was not entrapped.

20 If you find from your consideration of all the evidence
21 that each of these propositions has been proved beyond a
22 reasonable doubt, then you should find the defendant whom you
23 are considering guilty.

24 If on the other hand you find from your consideration of
25 all the evidence that any of these propositions has not been

EXHIBIT [12]

Jury Instructions

1 In a moment I'm going to send you back to the jury room,
2 but I instruct you now that you are not to begin deliberations
3 under any circumstances until that time that you receive from
4 the marshal the written instructions which I've just read and
5 certain other exhibits which I believe and the parties believe
6 will be helpful to you in your deliberations.

7 Finally, the verdict must represent the considered judgment
8 of each juror. Your verdict, whether it be guilty or not
9 guilty, must be unanimous. You should make every reasonable
10 effort in reaching a verdict. In doing so you should consult
11 with one another, express your own views and listen to the
12 opinions of your fellow jurors. Discuss your differences with
13 an open mind. Do not hesitate to re-examine your own views and
14 change your opinion if you come to believe it is wrong, but you
15 should not surrender your honest beliefs about the weight and
16 effect of evidence solely because of the opinion of your fellow
17 jurors or for the purpose of returning a unanimous verdict.

18 You should give fair and equal consideration to all the
19 evidence and deliberate with the goal of reaching an agreement
20 which is consistent with the individual judgment of each juror.
21 You are impartial judges of the facts. Your sole interest is
22 to determine whether the government has proved its case beyond
23 a reasonable doubt.

24 The marshal come forward. Raise your right hand.

25 (Marshal duly sworn.)

EXHIBIT [13]

788

Jury Instructions

1 for fear of what he would learn, you may conclude that he acted
2 knowingly as I have used that word.

3 A defendant need not personally perform every act
4 constituting the crime charged.

5 Every person who willfully participates in the commission
6 of a crime may be found guilty.

7 Any person who knowingly aids, abetts, counsels, commands,
8 induces or procures the commission of a crime is guilty of that
9 crime. However, that person must knowingly associate with the
10 criminal venture, participate in it and try to make it succeed.

11 Upon retiring to the jury room you will select one of your
12 number as your foreperson. The foreperson will preside over
13 your deliberations and will be your representative here in
14 court. Forms of verdict have been prepared for you.

15 The forms I will read. The first verdict form: We, the

16 jury, find the defendant Duane R. Olson guilty as charged in
17 the indictment. This is the form you will use if your verdict
18 is Duane R. Olson is guilty as charged in all counts in the
19 indictment.

20 Then there is another verdict form. We, the jury, find the
21 defendant Duane R. Olson not guilty as charged in the indict-
22 ment, which is the form you will use if you find that Duane
23 Olson is not guilty of all of the counts.

24 And then there is a third verdict form. We, the jury, find
25 the defendant Duane Olson guilty as charged in Counts, and then

EXHIBIT [14]

CLERK'S FILE COPY

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOCKETED

NOV 27 1991

UNITED STATES OF AMERICA,

Plaintiff,

FILED

v.

No. 90 CR 577

NOV 27 1991

DUANE OLSON,

Chicago, Illinois

H. STUART CUNNINGHAM, Clerk September 11, 1991

UNITED STATES DISTRICT COURT 1:00 p.m.

U.S.C.A. - 7th Circuit

FILED

Defendants.

) Sentencing

VOLUME 8

TRANSCRIPT OF PROCEEDINGS

THOMAS F. STRUBBE
CLERK

BEFORE THE HONORABLE JAMES B. ZAGEL

99-3574

APPEARANCES:

For the Government:

U.S.C.A. - 7th Circuit
FILED

DEC - 2 1999 PMS

GINO J. AGNELLO
CLERK

DOC # For Defendant Olson:

HON. FRED L. FOREMAN
United States Attorney, by
MR. RONALD E. SAFER
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604

MR. GREGORY SCHLESINGER
180 North LaSalle Street
Suite 1708
Chicago, Illinois 60601

Court Reporter:

Wanda L. Barnes
Official Court Reporter
219 South Dearborn Street
Suite 1918
Chicago, Illinois 60604
312 435-5568

EXHIBIT [15]

Fessler - direct

1 perhaps you have in your mind that this admirable thing ought
2 to be contrasted with, for example, Karl Fessler, who is not a
3 very admirable man. Clearly not a nice man. I don't think he
4 was all that persuasive.

5 But, frankly, given his background and his history, I don't
6 think that you will be standing here today convicted were it
7 not to for what appeared on tapes, and for one other thing:
8 for the delivery of 16 kilos of cocaine. Because no matter how
9 unfortunate it is that there are Karl Fessler's in this world
10 and no matter how unfortunate it is that the government uses
11 them -- and I think the government generally concurs with the
12 proposition that it is unfortunate that they have to use
13 them -- the fact of the matter is Fessler would never have
14 testified in this court, you would not be standing in this
15 court, if you hadn't delivered 16 kilos of cocaine.

16 For that offense Congress sets a guideline range, and I'm
17 imposing sentence within that guideline range.

18 I impose a sentence of 324 months in the custody of the
19 Attorney General, which is the minimum sentence that can be
20 given under this guideline. That is to be followed by ten
21 years supervised release.

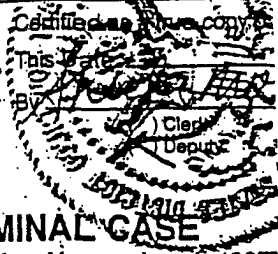
22 Based on my examination of your financial condition, I
23 waive the fine. I impose the special assessment of \$150.

24 Anything further?

25 MR. SCHLESINGER: Judge, one final matter, and that is

United States District Court

Northern District of Illinois
Eastern Division



UNITED STATES OF AMERICA

V.

DUANE R. OLSON

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 90 CR 577-1

(Name of Defendant)

Gregory Schlesinger

Defendant's Attorney

THE DEFENDANT:

- ☐ pleaded guilty to count(s) _____
☒ was found guilty on count(s) one, two, and three after a
plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21:846	Conspiracy	6/90	1
21:841(a)(1)	Possession w/intent to distribute Cocaine	6/90	2
21:841(a)(1)	Possession w/intent to distribute Cocaine	6/90	3

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).
☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.
☒ It is ordered that the defendant shall pay a special assessment of \$ 150.00, for count(s) 1, 2, 3, which shall be due ☐ immediately ☐ as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 203-20-7355

Defendant's Date of Birth: 12/7/28

Defendant's Mailing Address:

71 W. Van Buren Street

Chicago, IL 60605

Defendant's Residence Address:

Same

September 11, 1991

Date of Imposition of Sentence

Signature of Judicial Officer

JAMES B. ZAGEL, U.S. DISTRICT JUDGE

Name & Title of Judicial Officer

September 23, 1991

Date

EXHIBIT [17][1]

AQ 245 S. (Rev. 4/90) Sheet 2 - Imprisonment

Defendant: OLSON, Duane R.
Case Number: 90 CR 577-1

Judgment—Page

MAY. 7, 2008

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of THREE HUNDRED TWENTY-FOUR (324) MONTHS
Said term of imprisonment to be served concurrently on each of counts 1, 2 and 3.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States marshal.
☐ The defendant shall surrender to the United States marshal for this district;

☐ at _____ a.m.
_____ p.m. on _____
☐ as notified by the United States marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,
☐ before 2 p.m. on _____
☐ as notified by the United States marshal.
☐ as notified by the probation office.

RETURN

I have executed this judgment as follows:

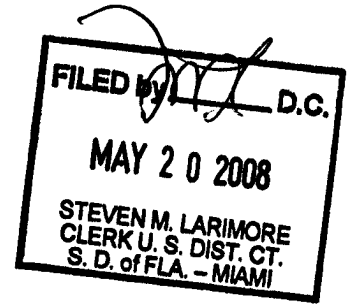
Defendant delivered on _____ to _____ at _____
_____, with a certified copy of this judgment.

United States Marshal

By _____

EXHIBIT [18]

IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION



DUANE R. OLSON,
Movant,

CASE NO: 08-21340-CIV-GOLD/WHITE

Versus

JORGE PASTRANA,
Respondent. /

A MOTION TO MOVE THE COURT TO ACT,
Pursuant To The Commands Of,
Title 28, United States Code, Section 2243.

COMES NOW, DUANE R. OLSON, (hereafter-Movant) to Respectfully
Move this Honorable Court to Act on the Movant's Application for
Habeas Corpus Relief on the above styled case filed with this
Court on Wednesday, May 7, 2008.

As Cause:

Title 28, United States Code, Section 2243., states in
relevant part;

"A court, justice or judge entertaining an application
for a writ of habeas corpus shall forthwith* award the
writ or issue an order directing the responsent to show
cause why the writ should not be granted..."

* forthwith — 1.Immediately; without delay. Black's Law Dict.

ADJUDICATED FACT

Murray v. Carrier; 91 L Ed 2d @ 416 (1986), Justice Stevens;

"The writ of habeas corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action."

"The Act (1867) gave federal courts 'power to grant writs of habeas corpus in all cases where any person may be restrained of his or her liberty in violation of the Constitution'."

The doctrine of the "presumption of innocence" was Created by Law as prima facia evidence in favor of the accused until; "[a]ll the elements necessary to constitute the offence intended to be punished" are proved "beyond a reasonable doubt" by the Prosecution to secure a conviction. (Writ @ -12-)

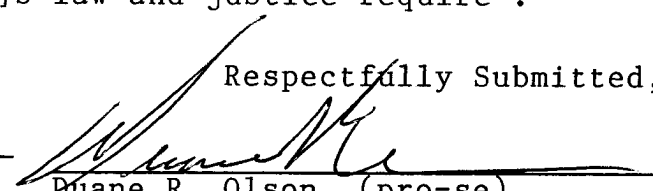
The "QUESTION" here is relatively simple;

Does the accused remain "factually innocent" of those elements "necessary to constitute the offence intended to be punished" that the Prosecution failed to prove "beyond a reasonable doubt" and for which the accused is now imprisoned?

The Movant would Respectfully Move this Honorable Court to Act on the Movant's claim of "**factual innocence**" and Application for Habeas Corpus Relief "[a]s law and justice require".

Movant

Respectfully Submitted,


Duane R. Olson (pro-se)

Reg. No: 04931-424

P.O. Box 779800 Unit "C"

Federal Correctional Institution
Miami, Florida 33177-0200

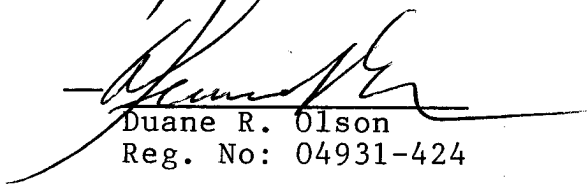
CERTIFICATE OF SERVICE

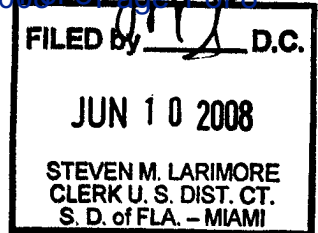
I, DUANE R. OLSON, hereby Swear and Certify that a **TRUE** and **CORRECT** Copy of the foregoing Motion To Move The Court To Act, was mailed, First Class, postage pre-paid, to the following Interested Party(s);

**UNITED STATES ATTORNEY
99 N.E. 4th STREET
MIAMI, FLORIDA 33132**

Executed on this 19th day of May, 2008.

Affiant


Duane R. Olson
Reg. No: 04931-424



IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

DUANE R. OLSON,
Applicant/Movant,

08-21340-CIV-GOLD/WHITE

Versus

THE UNITED STATES OF AMERICA,
Respondent/Defendant. /

A MOTION TO MOVE THE COURT TO ANSWER,
"[a]s law and justice require".

COMES NOW DUANE R. OLSON, the Applicant and Movant in the above Styled Action now apparently stalled before the Court, to Move this Honorable Court to "ANSWER" the Movant's APPLICATION FOR WRIT of HABEAS CORPUS RELIEF as "[1]aw and justice require".

As Cause for this Action;

The Movant would Respectfully Present the Court with the following Information for the Court's Consideration;

CONSTITUTION LAW

Constitution; Arctile I., Section 9., Clause 2.;

"The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or invasion the public Safety may require it."

STATUTORY LAW

Title 28, United States Code, Section 2241.;

"(a) Writs of habeas corpus may be granted by * * * the district courts [or] (b) [t]ransfer the application for hearing and determination to the district court having jurisdiction to entertain it."

STATUTORY LAW

Title 28, United States Code, Section 2243.;

"A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith* award the writ or issue an order directing the respondent to show cause why the writ should not be granted,"

ANCIENT LAW

In 1225, THE MAGNA CARTA, Created by Law in Favor of the People,
Provided that;

"No Freeman shall be taken, or imprisoned, or be disseised of his Freehold, or Liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we not pass upon him, nor condemn him, but by lawful Judgment of his Peers, or by the law of the Land."

ANCIENT LAW

In 1350, an English Statute declared that;

"It is contained in the Great Charter of the Franchises of England, that none shall be imprisoned nor put out of his Freehold, nor his Frnachises nor free Custom, unless it be by the Law of the Land. . . ."

* forthwith— 1. Immediately; without delay. (Black's Law)

ANCIENT LAW

Four years later, in 1354, another Statute Provided;

"[t]hat no Man of what Estate or Condition that he be, shall be put out of Land or Tenement, nor taken nor imprisoned, nor disinherited, nor put to Death, without being brought in Answer by due Process of the Law."

ANCIENT LAW

In 1363, it was Provided;

"[t]hat no man be taken or imprisoned, nor put out of his freehold, without process of law."

On September 28, 1787, GEORGE WASHINGTON, (presiding officer) sent the "NEW" Constitution to the legislatures, "[i]n order to be submitted to a convention of delegates chosen in each state by the people thereof" and the ratified Constitution was declared to be in effect, the First Wednesday in March, 1789;

CONSTITUTION LAW

Constitution; Amendment V.;

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury * * * nor be deprived of life, liberty, or property, without due process of law;"

CONSTITUTION LAW

Constitution; Article III., Section 2., Clause 3.;

"The trial of all Crimes, except in Cases of Impeachment, shall be by Jury;"

SUPREME LAW OF THE LAND

Russell v. United States; 8 L ed 2d 240 @ 251, (May 21, 1962);

Mr. Justice STEWART;

Quoting; United States v. Cruikshank; 23 L ed 588 @ 593;

"It is an elementary principle of criminal pleading, that where the definition of an offense, whether it be at common law or by statute, 'includes generic terms, it is not sufficient that the indictment shall charge the offense in the same generic terms as in the definition; but it must state the species—it must descend to particulars.'"

SUPREME LAW OF THE LAND

Russell v. United States; 8 L ed 240 @ 251, (May 21, 1962);

Mr. Justice STEWART;

Quoting; United States v. Simmons; 24 L ed 819 @ 820;

"An indictment not framed to apprise the defendant 'with reasonable certainty, of the nature of the accusation against him * * * is defective, although it may follow the language of the statute'."

SUPREME LAW OF THE LAND

Russell v. United States; 8 L ed 240 @ 251, (May 21, 1962);

Mr. Justice STEWART;

Quoting; United States v. Carll; 26 L ed 1135;

"In an indictment upon a statute, it is not sufficient to set forth the offence in the words of the statute, unless those words of themselves fully, directly, and expressly, without any uncertainty or ambiguity, set forth all the elements necessary to constitute the offence intended to be punished;"

SUPREME LAW OF THE LAND

Re: Winship; 25 L Ed 2d 368 @ 385 (March 31, 1970) Mr. Justice BRENNAN Quoting Mr. Justice MOODY, 'modifying' Mr. Justice CURTIS' definition of "due process of law";

"But, consistently with the requirements of due process, no change in ancient procedure can be made which disregards those fundamental principles, to be ascertained from time to time by judicial action, which have relation to process of law and protect the citizen in his private right, and guard him against the arbitrary action of government."

THE QUESTION HERE IS NOT . . .

1) **WHETHER** the Constitution Confer's Authority for Congress to 'regulate the Commerce' in 'drugs or other substances', or; 2) **WHETHER** the "necessary and proper" clause Confer's Authority for Congress to 'regulate' intrastate activities in 'drugs or other substances', or; 3) **WHETHER** Congress has Power to Authorize the Attorney General to promulgate "rules and regulations * * * for regulated persons and of regulated transactions", or; 4) **WHETHER** Congress has the Power to Enact Legislation for the Executive Branch of the Government to **Enforce** the "rules and regulations" promulgated by the Attorney General, or; 5) **WHETHER** Congress has the Power to Enact Legislation for the Judicial Branch to Punish any person who violates the "rules and regulations" promulgated by the Attorney General . . . **THEY DO!**

N O R . . . IS THE QUESTION HERE . . .

1) **WHETHER** the Constitution Confer's Authority for Congress to Enact Legislation that would make it . . . **UNLAWFUL . . .** for **any person*** to possess, manufacture, distribute, or dispense, "controlled substances" . . . whatever they are . . . or; 2) **WHETHER** the Statute, Section **841(a)(1).**, of Title 21, Confer's Federal **jurisdiction in personam** for Members of the Executive Branch of the Government of the United States, to arrest and prosecute **any person*** who "violates" the "**Authorized activities**" of Title 21, United States Code, Section **822(b).**, or; 3) **WHETHER** the Statute, Section **841(a)(1).**, of Title 21, Confer's Federal **jurisdiction in personam** for Members of the Judicial Branch of the Government of the United States, to Hear, Adjudicate, and Impose Punishment upon **any person*** who either ADMITS or is FOUND **GUILTY** of Conduct **NOT 'authorized'** by Title 21, United States Code, Section **822(b)** . . . **IT DOES NOT!**

WHEN any person* is accused of an Offense against the "[l]aws of the United States", the accused is "presumed-innocent" until **A L L** the elements necessary to constitute the Offense intended to be Punished . . . are either admitted by the accused . . . or proved "beyond a reasonable doubt" by the prosecution to Secure a Conviction and Impose Punishment, and . . .

* **any person** — any person in **BOLD** and with an asterisk means **any person*** at random, Citizen or Foreign National, within the boundaries of the United States, it's Territories, or Possessions.

WHEN the "presumption of innocence" of the **Single Element Necessary** to Impose the Punishment for the Offense is **NEVER ADMITTED** by the accused, or **NEVER OVERCOME** by the Prosecution and/or a jury verdict . . .

THE QUESTION HERE IS . . .

DOES THE ACCUSED . . . **REMAIN** . . . "presumptively-innocent" of the element necessary for the Sentencing or Trial Court to Impose Punishment?

CONCLUSION

Taken ALL together . . .

The prima facia evidence Presented with the APPLICATION for Habeas Corpus Relief, Statutory Law, Ancient Law, Constitution Law, and The Supreme Law of the Land . . .

The Applicant herein Identified as DUANE R. OLSON, has **every** "RIGHT" to DEMAND this Honorable Court to Either; 1). ORDER the Respondent/Defendant to Release Olson from IL-legal, UN-constitutional, and FALSE Imprisonment...forthwith, or, 2). transfer the Writ to the Northern District of Illinois, Chicago, or, 3). Indicate "with certainty and precision" where the Applicant's Theory of Constitution Law and Strategy of Argument is 'frivolous and without merit', or, 4). let this Court tell the Bravest of this Nation's Young Men and Women who are Prepared...

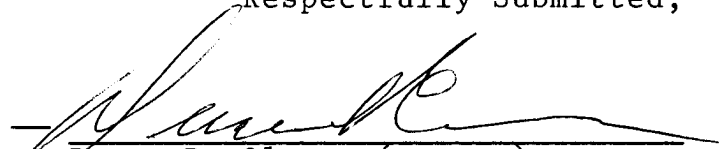
every day...to Offer the Supreme Sacrifice in **IRAQ** and **AFGHANISTAN**;

That the Ancient Principles of Law Protected and Secured by
the Constitution for the United States and Guaranteed by the
Original Ten (10) Articles of Amendment thereto . . . **IS DEAD**
. . . and "[1]ay the matter to rest"!

°°

Respectfully Submitted,

Movant/Applicant

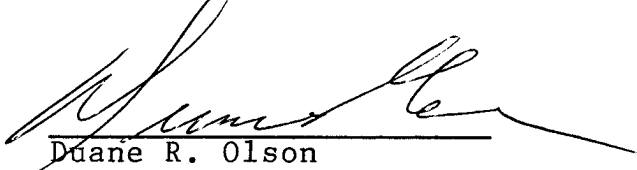

Duane R. Olson (pro-se)
Reg. No: 04931-424
P.O. Box 779800 Unit "C"
Federal Correctional Institution
Miami, Florida 33177-0200

CERTIFICATE OF SERVICE

I, DUANE R. OLSON, hereby Swear that a TRUE and CORRECT
Copy of the foregoing 8-pages of this Motion to Move the
Court to "ANSWER", was mailed, First Class, Postage Pre-Paid,
to the United States Attorney's Office, 99 N.E. 4th Street,
Miami, Florida.

Executed on this 9th day of June, 2008.

Affiant


Duane R. Olson